

KILAUEA POINT NATIONAL WILDLIFE REFUGE  
EXPANSION ACT OF 2004

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JUNE 3, 2004.—Committed to the Committee of the Whole House on the State of  
the Union and ordered to be printed

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Mr. POMBO, from the Committee on Resources,  
submitted the following

R E P O R T

[To accompany H.R. 2619]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 2619) to provide for the expansion of Kilauea Point National Wildlife Refuge, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Kilauea Point National Wildlife Refuge Expansion Act of 2004” .

**SEC. 2. EXPANSION OF KILAUEA POINT NATIONAL WILDLIFE REFUGE.**

(a) IN GENERAL.—The Secretary of the Interior may acquire by donation, purchase with donated or appropriated funds, or exchange, all or a portion of the land or interests in land described in subsection (b), as depicted on a map on file with the United States Fish and Wildlife Service entitled “Kilauea Point Wildlife Refuge Expansion Area” and dated April 22, 2004.

(b) DESCRIPTION OF LAND.—The land referred to in subsection (a) is the following:

(1) Parcel 1, consisting of approximately 12 acres known as the Kilauea Bay property.

(2) Parcel 2, consisting of approximately 40 acres known as the Kilauea Vistas property.

(3) Parcel 3, consisting of approximately 162 acres known as the Kilauea Falls Ranch.

(4) Parcel 4, consisting of approximately 5 acres known as the Kauai Public Land Trust Kahili Beach property.

(5) Parcel 5, comprised of lot 10c of the parcel known as Kilauea Garden Farms, and consisting of approximately 15 acres.

(c) **BOUNDARY REVISIONS.**—The Secretary may make such minor revisions in the boundaries of any of the parcels described in subsection (b) as may be appropriate to facilitate the acquisition of land or interests under subsection (a).

(d) **INCLUSION IN REFUGE.**—Land and interests acquired under this section shall become part of the Kilauea Point National Wildlife Refuge.

(e) **MANNER OF ACQUISITION.**—All acquisitions of land or waters under this Act shall be made in a voluntary manner and shall not be the result of forced takings.

(f) **ADDITIONAL PURPOSES.**—In addition to the purposes of the Refuge under other laws, regulations, Executive orders, and comprehensive conservation plans, the Refuge shall be managed for—

(1) the protection and recovery of endangered Hawaiian water birds and other endangered birds, including the Nene (Hawaiian goose); and

(2) the conservation and management of native coastal strand, riparian, and aquatic biological diversity.

(g) **PRIORITY GENERAL PUBLIC USES.**—Nothing in this Act shall be considered to affect any policy or requirement, under paragraph (3) or (4), respectively, of section 4(a) of the National Wildlife Refuge Administration Act of 1966 (16 U.S.C. 668dd(a)), to treat compatible wildlife-dependent recreational uses as priority general public uses of the Refuge.

### **SEC. 3. ADMINISTRATION.**

(a) **IN GENERAL.**—The Secretary shall administer all federally owned land, water, and interests in land and water that are located within the boundaries of the Kilauea Point National Wildlife Refuge in accordance with—

(1) the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.); and

(2) this Act.

(b) **ADDITIONAL AUTHORITY.**—The Secretary may, in the administration of the Kilauea Point National Wildlife Refuge, use such additional statutory authority available to the Secretary for the conservation of fish and wildlife, and the provision of opportunities for fish- and wildlife-dependent recreation, as the Secretary determines to be appropriate to carry out this Act.

### **SEC. 4. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated such sums as may be necessary—

(1) to acquire land and water within the Refuge under section 2(a); and

(2) to develop, operate, and maintain the Refuge.

### **PURPOSE OF THE BILL**

The purpose of H.R. 2619 is to provide for the expansion of Kilauea Point National Wildlife Refuge.

### **BACKGROUND AND NEED FOR LEGISLATION**

The Kilauea Point National Wildlife Refuge on the Hawaiian island of Kauai was established on December 19, 1984. The initial size of the Refuge was 31 acres containing the historic Kilauea Lighthouse. This land was transferred to the U.S. Fish and Wildlife Service from the U.S. Coast Guard. In 1988, the Congress expanded the size of the Refuge with the enactment of Public Law 100–653. This law authorized the Secretary of the Interior to acquire certain additional adjacent lands, specifically Crater Hill and Mikolea Point, for inclusion within the Refuge. These lands were to be used to: construct and maintain public access foot trails; construct an access road; acquire, or construct, and maintain a fence to protect wildlife; conduct native plant restoration and wildlife enhancement activities; and establish a recreation area in the vicinity of Kahili Bay. The Refuge is now 203 acres and it is one of few Refuges open to the public in the State. It is estimated that 400,000 people visited Kilauea Point last year.

The Kilauea Lighthouse was purchased from the heirs of a Yankee whaler named Charles Titcomb, who had acquired a large parcel of land on Kauai's North Shore in 1863. The federal government purchased the 31 acre Point and 5 acre islet for only \$1 in

1909. Due to the porous volcanic rock on the Point, a deep concrete pad had to be poured for the lighthouse foundation. The finished tower rose 52-feet tall and cast its beam from 216-feet above the sea. Total cost for the structure was \$77,982, of which \$12,000 went for its magnificent clamshell lens which is the largest in the world. The lighthouse was completed in 1913. The Coast Guard operated this facility, which was a valuable navigational aid to thousands of commercial vessels and boats that sailed between Hawaii and Asia, until 1976. At that time, the Coast Guard deactivated the lighthouse, reassigned the three lighthouse keepers and installed an automated beacon. The lighthouse was placed on the National Register of Historic Places in 1979.

The current boundaries of the Refuge provide essential habitat for a diverse population of nesting, feeding and resting native seabirds including seven endangered avian species such as the Hawaiian moorhen, Hawaiian stilt, Hawaiian coot, Koloa duck, and the official state bird, the Hawaiian goose, which is better known as the nene. This Refuge is the only such sanctuary for endangered birds on the island of Kauai. In addition, there are a number of listed native Hawaiian plants including ahea'hea, akoko, hala, ilima and naupaka found within the Refuge boundaries.

Kilauea Point, which is located on the northernmost tip of the island, provides a safe harbor for highly endangered Hawaiian monk seals, humpback whales, Laysan albatross, Pacific golden plovers, Red-footed boobies, Wedge-tailed shearwaters and the great frigate birds. While the Refuge does not have an official Friends Group, there are more than 150 members of the Kilauea Point Natural History Association who volunteer their time to conduct guided tours, provide interpretative information and operate the refuge visitor's center.

Under the terms of H.R. 2619, the Secretary of Interior is authorized to acquire all or a portion of the 234 acres designated in the bill. This land is comprised of five separate parcels of land owned by private individuals who have expressed a willingness to sell or donate the property for inclusion within the refuge. The purposes of this measure are the protection and recovery of endangered Hawaiian waterbirds and the endangered nene and the conservation and management of native coastal strand, riparian and aquatic biological diversity.

#### COMMITTEE ACTION

H.R. 2619 was introduced on June 26, 2003, by Congressman Ed Case (D-HI). The bill was referred to the Committee on Resources, and within the Committee to the Subcommittee on Fisheries Conservation, Wildlife and Oceans. On September 25, 2003, the Subcommittee held a hearing on the bill. On April 22, 2004, the Subcommittee met to mark up the bill. Mr. Gilchrest (R-MD) offered an amendment in the nature of a substitute that clarified that the owners may donate the property to the federal government, all acquisitions shall be made in a voluntary manner and shall not be the result of forced takings and that the priority uses shall include fishing, wildlife observation, photography and environmental education. The amendment was adopted by unanimous consent. The bill was then ordered favorably reported to the Full Committee by unanimous consent. On May 19, 2004, the Full Resources Com-

mittee met to consider the bill. There were no further amendments offered and the bill was then ordered favorably reported to the House of Representatives by unanimous consent.

#### COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Resources' oversight findings and recommendations are reflected in the body of this report.

#### CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 of the Constitution of the United States grants Congress the authority to enact this bill.

#### COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

2. Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

3. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is to provide for the expansion of Kilauea Point National Wildlife Refuge.

4. Congressional Budget Office Cost Estimate. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office.

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, May 28, 2004.*

Hon. RICHARD W. POMBO,  
*Chairman, Committee on Resources,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2619, the Kilauea Point National Wildlife Refuge Expansion Act of 2004.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Megan Carroll.

Sincerely,

ELIZABETH M. ROBINSON  
(For Douglas Holtz-Eakin).

Enclosure.

*H.R. 2619—Kilauea Point National Wildlife Refuge Expansion Act of 2004*

Summary: H.R. 2619 would authorize the Secretary of the Interior to acquire land for inclusion in the Kilauea Point National Wildlife Refuge in Hawaii. CBO estimates that implementing H.R. 2619 would cost \$6 million in 2005 and \$18 million over the next five years, assuming appropriation of the necessary amounts. Enacting the bill would not affect direct spending or revenues.

H.R. 2619 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would have no significant impact on the budget of state, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 2619 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment).

	By fiscal year, in millions of dollars—				
	2005	2006	2007	2008	2009
Changes in Spending Subject to Appropriations					
Estimated authorization level .....	6	12	*	*	*
Estimated outlays .....	6	12	*	*	*

Note.—\* = Less than \$500,000.

Basis of estimate: H.R. 2619 would authorize the Secretary of the Interior to acquire, by purchase or donation, five parcels of privately owned property for inclusion in the Kilauea Point National Wildlife Refuge in Hawaii. Based on information from the U.S. Fish and Wildlife Service, CBO estimates that implementing this legislation would cost \$18 million over the next two years and less \$500,000 annually thereafter, assuming appropriation of the necessary amounts. Specifically, we estimate that the agency would spend \$6 million in 2005 and \$11 million in 2006 to acquire land under the bill. We also estimate that the agency's administrative costs to expand the boundary of the refuge would total \$250,000 over the 2005–2006 period, and that ongoing costs to manage the expanded area and make payments to Kauai County under the Refuge Revenue Sharing Act would cost less than \$500,000 annually, starting in 2005.

Intergovernmental and private-sector impact: H.R. 2619 contains no intergovernmental or private-sector mandates as defined in UMRA and would have no significant impact on the budgets of state, local, or tribal governments.

Estimate prepared by: Federal Costs: Megan Carroll. Impact on State, Local, and Tribal Governments: Marjorie Miller. Impact on the Private Sector: Selena Caldera.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104–4

This bill contains no unfunded mandates.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW

If enacted, this bill would make no changes in existing law.

